

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHAEL J. MONROE,

Plaintiff,

-against-

TOWN OF HAVERSTRAW POLICE OFFICER
SEAN CAMBEL, et al.,

Defendants.

ORDER OF SERVICE

20-CV-10944 (PMH)

PHILIP M. HALPERN, United States District Judge:

Plaintiff, currently detained at the Rockland County Correctional Facility, brings this *pro se* action under 42 U.S.C. § 1983, alleging violations of his constitutional rights.

In the Court’s March 29, 2021 Order of Service, it directed—pursuant to *Valentin v. Dinkins*, 121 F.3d 72, 76 (2d Cir. 1997)—that the Town of Haverstraw Attorney “ascertain the identity and badge number of each John Doe whom Plaintiff seeks to sue here and the address where the defendant may be served.” (Doc. 8 at 2-3). By letter dated May 6, 2021, counsel for the Town identified the John Doe defendants as Police Officer William Santiago (Badge No. 241) and Lieutenant Ian Kaye, both of the Haverstraw Police Department. (Doc. 15). The Court advised previously that it would “deem the complaint amended once the John Doe officers have been identified.” (Doc. 8 at 3).

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service. *Walker v. Schult*, 717 F.3d 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP). Although Rule 4(m) of the Federal Rules of Civil Procedure requires generally that the summons and complaint be served within 90 days of the date

the complaint is filed, Plaintiff is proceeding IFP and could not have served the summons and complaint until the Court reviewed the complaint and ordered that a summons be issued. The Court therefore extends the time to serve until 90 days after the date the summons is issued. If the complaint is not served within that time, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service); *see also Murray v. Pataki*, 378 F. App'x 50, 52 (2d Cir. 2010) ("As long as the [plaintiff proceeding IFP] provides the information necessary to identify the defendant, the Marshals' failure to effect service automatically constitutes 'good cause' for an extension of time within the meaning of Rule 4(m).").

To allow Plaintiff to effect service on Defendants Officer William Santiago and Lieutenant Ian Kaye through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form ("USM-285 form") for each of these defendants. The Clerk of Court is instructed further to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these defendants.

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

Pursuant to the Court's March 29, 2021 Order of Service, the Court deems the complaint amended to identify Police Officer William Santiago and Lieutenant Ian Kaye as the John Doe defendants in this action.

The Clerk of Court is directed to mail a copy of this Order to Plaintiff.

The Clerk of Court is further instructed to complete the USM-285 forms with the addresses for Officer Santiago and Lieutenant Kaye and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED:

Dated: White Plains, New York
May 7, 2021



PHILIP M. HALPERN
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

1. Officer William Santiago (Badge No. 241)
c/o Town Clerk of the Town of Haverstraw
Town Hall
One Rosman Road
Garnerville, New York 10923
2. Lieutenant Ian Kaye
c/o Town Clerk of the Town of Haverstraw
Town Hall
One Rosman Road
Garnerville, New York 10923